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EXAMINER
CHENEY, C

ART UNIT	PAPER NUMBER
2747	4

DATE MAILED: 09/13/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/936,338

Applicant(s)

Oliver et al.

Examiner

Clark S. Cheney

Group Art Unit

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☒ Responsive to communication(s) filed on Jun 16, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-18 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-18 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Page 2, line 12: after "A" delete "users" and insert --user's--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-15 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 5,642,492 ('492) to Iizuka.

As per claims 1 and 18:

The reference '492 teaches a method of recording and reproducing a sound on or from an external memory medium such as a hard disk using a punch-in and punch-out process. Using this process, a specific content of an audio signal which was recorded in a specific area on a certain track is replaced with another audio signal (col. 1, lines 45-50).

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Audio I/O device 8-4 (Fig. 17) receives a media input stream (col. 23, lines 10-13). The data from this stream is saved continuously to circular buffer 9-4 (col. 5, line 66-col. 6, line 3; col. 24, lines 6-7). Data from buffer 9-4 is written to hard disk 12 according to punch-in and punch out commands (col. 24, lines 46-50). As described in these passages, the data from the input stream is saved without regard to the occurrence of punching signals.

As per claims 2 and 17:

As shown in Fig. 18, CPU 1 selects the track to be punched in and sets an amount of point offset. For example, the track Tr2 is selected from among the tracks Tr1 to Tr3 as a track to be punched in and a certain value is set for the amount of point offset. The amount of point offset designates how long the sound should go back from the time when a punch-in trigger occurs to be recorded. This point offset creates a first record handle before a punch point. The sound can be recorded which goes back as much as the capacity of the punch-in buffer 9-4 at a maximum (col. 23, lines 37-45; see also col. 28, lines 35-45).

A second record handle between the punch out point and the end of the media file is represented as "data g" in Fig. 16. This handle is comprised of data that was transferred from the audio input device to the buffer after the time A when the punch-out key is input (col. 22, lines 15-18, 31-34). The record interval between the punch-in and punch-out points is designated on the hard disk (col. 9, lines 44-47).

As per claim 3:

The time interval of the audio input stream is a recording session (col. 23, line 9).

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As per claim 4:

When the editing process for punch-in or punch-out is finished, the operation goes to step 3-7 (Fig. 3), where a play-back schedule table for events generated by punch-in and punch-out is prepared and modified. Thereafter, the play-back operation is executed in accordance with the play-back schedule written in the play-back schedule table, and the audio signal subjected to the punch-in and punch-out edition may be reproduced (col. 9, lines 58-65). The offset length can be adjusted to any "certain value" as described above.

As per claim 5:

Iizuka teaches that when a user of the present digital recorder operates the punch-in key at a given time, listening to the audio signal reproduced from the buffer to be punched-in, the time when the punch-in trigger occurs actually will be delayed a little from the punch-in point which the user desires. The offset value corresponding to the above delay may compensate the delay (col. 28, lines 39-45). This delay is approximately one second.

As per claim 6:

Iizuka's invention contemplates a plurality of buffer portions 9-1 to 9-4 to receive the media stream of a plurality of input channels 8-1 to 8-4 (Fig. 17, col. 24, lines 41-43).

As per claims 7 and 8:

All data (buffer blocks) are assigned addresses, or storage tags. Iizuka describes in detail how these tags are used to determine which blocks are stored where and which will be overwritten (see col. 25, lines 18-32, 42-50; col. 29, lines 19-33).

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As per claim 9:

The limitations of this claim are anticipated by the references cited above.

As per claim 10:

CPU 1 (Fig. 17) is a host processor that controls the storage of data from the buffer to the mass storage device.

As per claim 11:

The circular buffers described above operate in the FIFO manner claimed.

As per claim 12-14:

The limitations of these claims are anticipated by the references cited above.

As per claim 15:

The buffer may be random access memory (claim 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iizuka.

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Iizuka teaches an input stream comprised of multiple channels, having RAM buffers logically allocated amongst the channels as noted above. Iizuka does not teach an input stream comprising up to 16 channels.

However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to expand the number of channels and associated memories areas to sixteen. Such a duplication of parts is not patentably distinct. See In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Response to Amendment

6. Objection to claims 1 and 8 is withdrawn in view of Applicant's amendment. As indicated above, objection to the specification remains. Applicant's requested amendment to the specification was not entered because it improperly specified the line number of the change.

Response to Arguments

7. Applicant's arguments filed June 16, 2000, have been fully considered but they are not persuasive.

The thrust of Applicant's arguments is that Iizuka does not disclose loading data corresponding to the media input stream into a buffer continuously while the media input stream exists. The Examiner respectfully disagrees. Iizuka teaches, "In the record mode, the audio I/O

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devices 8-1 to 8-4 request the DMA controller 10 *every sampling cycle* for DMA transfer (single transfer) of digital data relating to one *sampling from the audio I/O devices 8-1 to 8-4 towards the buffers 9-1 to 9-4 respectively*" (col. 5, line 66-col. 6, line 3, emphasis added). Because data is being stored in buffers 9-1 to 9-4 every sampling cycle, Iizuka anticipates the limitation of Applicant's claim that requires saving data corresponding to the media input stream in a buffer continuously. As noted above, buffers 9-1 to 9-4 are ring buffers to allow this process to continue indefinitely (col. 6, lines 22-29). Further, the Examiner notes that if Iizuka's invention did not save incoming data to a buffer continuously it would not be able to perform the claimed functionality of not losing data through the punch-in/punch-out process.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication should be directed to Clark S. Cheney, Patent Examiner, whose telephone number is (703) 306-5836. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 4:00 p.m., E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen, can be reached at (703) 305-4386. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5403.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


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